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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

- - - - - x
In re: : Chapter 11
:
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)
et al., :
:
Debtors. : Jointly Administered
- - - - - x

**ORDER (I) APPROVING SALE OF INTELLECTUAL PROPERTY,
INTERNET-RELATED PROPERTY AND CUSTOMER INFORMATION FREE
AND CLEAR OF ALL INTERESTS; AND (II) GRANTING RELATED
RELIEF**

Upon the motion (the "Motion")¹ of Circuit City Stores West Coast, Inc., and Circuit City Stores, Inc. (the "Sellers" and, collectively with the debtors and

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

debtors in possession in the above-captioned jointly administered cases, the "Debtors"), for entry of orders under Bankruptcy Code sections 105, 332 and 363 and Bankruptcy Rules 2002 and 6004, (I)(A) approving procedures in connection with soliciting bids for a sale (the "Sale") of certain of the Sellers' intellectual property, internet-related property and customer information (collectively the "Intellectual Property and Internet Assets"), (B) authorizing the Sellers to enter into a stalking horse agreement in connection therewith, (C) approving certain Bid Protections in connection therewith, (D) approving the form and manner of sale notice and (E) scheduling Auction and Sale Hearing dates (each as defined below); (II) authorizing the U.S. Trustee to appoint a consumer privacy ombudsman (the "CPO"); (III) approving the Sale of the Intellectual Property and Internet Assets free and clear of all Interests and (IV) granting related relief; and the Court having conducted a hearing on the Motion on May 13, 2009 (the "Sale Hearing"); and all parties in interest having been heard, or having had the opportunity to be heard, regarding the agreement, as amended, attached hereto as

Exhibit 1 (the "Agreement"), by and among the Sellers and Systemax Inc. (the "Purchaser") and the transactions contemplated thereby (including the transactions contemplated by the Side Letter (defined below), the "Transactions"); and the Court having reviewed the letter agreement, dated May 12, 2009, between Circuit City Stores West Coast, Inc., Ventoux International, Inc., InterTan, Inc., InterTan Canada Ltd., Bell Canada, and 4458729 Canada Inc. (the "Side Letter"), which is incidental to and intended to facilitate consummation of the Agreement; and the Court having reviewed and considered the Motion, the Side Letter and the arguments of counsel made, and the evidence adduced, at the Sale Hearing; and upon the record of the Sale Hearing and these chapter 11 cases, and after due deliberation thereon, and good cause appearing therefore it is hereby

FOUND AND DETERMINED THAT:²

A. The Court has jurisdiction to hear and determine the Motion and to grant the relief requested

² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

in the Motion pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(b).

B. Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

C. The statutory predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 332 and 363 and Bankruptcy Rules 2002 and 6004.

D. Notice of the Motion and entry of the Sale Order has been provided to (A)(i) all entities known to have expressed an interest in a transaction with respect to the Intellectual Property and Internet Assets during the past three (3) months, (ii) all entities known to have asserted any Lien upon the Intellectual Property and Internet Assets, (iii) all federal, state, and local regulatory or taxing authorities or recording offices, which have a reasonably known interest in the relief requested by the Motion and (iv) all parties entitled to notice under the Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and

9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (D.I. 130; the "Case Management Order") and (B) other parties through publication of the Sale Notice, all in accordance with and as provided by the Bidding Procedures Order.

E. Purchaser has agreed to provide additional notice of the Sale through the Opt Out Process (as defined herein) to persons that are included in the definition of Circuit City Data and Alpine Data (collectively, the "Consumers").

F. Based upon the affidavits of service and publication filed with the Court and the Opt Out Process provided for herein: (a) notice of the Motion and the Sale Hearing was adequate and sufficient under the circumstances of these chapter 11 cases and these proceedings and complied with the various applicable requirements of the Bankruptcy Code and the Bankruptcy Rules and the Bidding Procedures Order; (b) a reasonable opportunity to object and be heard with respect to the Motion and the relief requested therein was afforded (or will be afforded) to all interested persons and entities; and (c) additional notice will be afforded to the

Consumers to accommodate any rights such Consumers may have as parties in interest. Under the circumstances, good and sufficient notice of the Side Letter has been given to all necessary parties.

G. The Intellectual Property and Internet Assets are property of the Sellers' estates and title thereto is vested in the Sellers' estates.

H. The Sellers and their professionals marketed the Intellectual Property and Internet Assets and conducted the marketing and sale process as set forth in and in accordance with the Motion. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective purchasers have been afforded a reasonable and fair opportunity to bid for the Intellectual Property and Internet Assets.

I. After an auction held on May 11, 2009 (the "Auction"), the Sellers determined that the highest and best Qualified Bid was that of Purchaser and the next highest and best Qualified Bid (the "Alternate Bid") was that of PC Mall, Inc. (the "Alternate Bid-

der").² The Alternate Bidder has agreed to keep the Alternate Bid open until consummation of the Transactions contemplated by the Agreement with the Purchaser.

J. Subject to the entry of this Order, each Seller (i) has full power and authority to execute the Agreement and all other documents contemplated thereby including the Side Letter, and the sale of the Intellectual Property and Internet Assets by the Sellers has been duly and validly authorized by all necessary company action of each of the Sellers, (ii) has all of the power and authority necessary to consummate the Transactions contemplated by the Agreement and Side Letter, (iii) has taken all company action necessary to authorize and approve the Agreement and the consummation by the Sellers of the Transactions. No consents or approvals, other than those expressly provided for in the Agreement or this Order, are required for the Sellers to close the Sale and consummate the Transactions.

² In the event the Sellers do not consummate the Transactions with the Purchaser contemplated by the Agreement, all references (other than references in this footnote) to the Purchaser shall be a reference to the Alternate Bidder and all references to the Agreement shall be a reference to the Alternate Bid. No further court order shall be required for the Sellers to close the transactions contemplated by the Alternate Bid with the Alternate Bidder.

K. The Agreement and the Transactions were negotiated and have been and are undertaken by the Sellers, the Purchaser and the parties to the Side Letter at arms' length without collusion or fraud, and in good faith within the meaning of Sections 363(m) of the Bankruptcy Code. As a result of the foregoing, the Sellers, the Purchaser and the parties to the Side Letter are entitled to the protections of Section 363(m) of the Bankruptcy Code.

L. The total consideration provided by the Purchaser for the Intellectual Property and Internet Assets is the highest and best offer received by the Sellers, and the Purchase Price constitutes (a) reasonably equivalent value under the Bankruptcy Code and Uniform Fraudulent Transfer Act, (b) fair consideration under the Uniform Fraudulent Conveyance Act, and (c) reasonably equivalent value, fair consideration and fair value under any other applicable laws of the United States, any state, territory or possession, or the District of Columbia ((a), (b) and (c) collectively, "Value"), for the Intellectual Property and Internet Assets.

M. The Purchaser would not have entered into the Agreement and would not consummate the Transactions, thus adversely affecting the Sellers, their estates and creditors, if the sale of the Intellectual Property and Internet Assets to the Purchaser was not free and clear of all Interests (as defined in the Agreement), if the Purchaser would, or in the future could, be liable for any of such Interests, or if the transactions contemplated by the Side Letter were not consummated. A sale of the Intellectual Property and Internet Assets other than one free and clear of all Interests would adversely impact the Sellers' estates, and would yield substantially less value for the Debtors' estates, with less certainty than the Sale. Therefore, consummation of the Transactions is in the best interests of the Sellers, their estates and creditors, and, subject to the Opt Out Process, all other parties in interest.

N. Subject to the Opt Out Process, the Sellers may sell the Intellectual Property and Internet Assets and transfer the property that is the subject of the Side Letter free and clear of all Interests, because, with respect to each creditor asserting a Inter-

est, one or more of the standards set forth in Bankruptcy Code § 363(f)(1)-(5) has been satisfied. Those holders of Interests who did not object or who withdrew their objections to the Sale or the Motion are deemed to have consented to the Motion and Sale pursuant to Bankruptcy Code § 363(f)(2). Those holders of Interests who did object fall within one or more of the other subsections of Bankruptcy Code Section 363(f).

O. Neither the Sellers, Purchaser nor the parties to the Side Letter engaged in any conduct that would cause or permit the Agreement or the consummation of the Transactions to be avoided, or costs or damages to be imposed, under Section 363(n) of the Bankruptcy Code.

P. The Purchaser is not holding itself out to the public as a continuation of the Sellers and is not an "insider" or "affiliate" of any of the Debtors.

Q. Entry into the Agreement and Side Letter and consummation of the Transactions constitute the exercise by the Sellers of sound business judgment and such acts are in the best interests of the Sellers, their estates and creditors, and all other parties in

interest. The Court finds that the Sellers have articulated good and sufficient business reasons justifying the Sale of the Intellectual Property and Internet Assets to Purchaser. Such business reasons include, but are not limited to, the following: (i) the Agreement constitutes the highest and best offer for the Intellectual Property and Internet Assets; (ii) the Agreement and the closing thereon will present the best opportunity to realize the value of the Intellectual Property and Internet Assets and avoid decline and devaluation of the Intellectual Property and Internet Assets; (iii) there is substantial risk of deterioration of the value of the Intellectual Property and Internet Assets if the Sale is not consummated promptly; and (iv) the Agreement and the closing thereon will provide a greater recovery for the Sellers' creditors than would be provided by any other presently available alternative.

R. The Debtors have also articulated a good business justification for entry into the Side Letter, including that it will facilitate the closing of the transactions contemplated by the Agreement and the transactions contemplated by the Canada APA.

S. The Purchaser is in materially the same line of business as the Debtors.

T. Upon due consideration, and upon review of the interim report of the CPO filed on May 11, 2009 and the final report of the CPO filed on May 13, 2009 (collectively, the "CPO Report"), the facts, circumstances and conditions of the sale of the Circuit City Data, including any personally identifiable information ("PII") incorporated therein, warrant approval of the Sale under Bankruptcy Code section 363(b)(1)(B)(i).

U. Based on all of the protections provided under this Order, and the absence of any objection with respect to the relief granted by this Order, there has been no showing that the transfer of the PII provided for herein violates any federal, state, international, and any other applicable nonbankruptcy laws, including (without limitation) laws prohibiting unfair or deceptive practices "UDAP," data breach, privacy, "do-not-call," and "no spam" laws. Accordingly, the sale satisfies the requirements of bankruptcy code section 363(b)(1)(B)(ii).

V. The Alpine Data, including any PII, is not subject to a privacy policy, and there has been no showing that the sale of such PII violates any federal, state, international, and any other applicable nonbankruptcy laws, including (without limitation) laws prohibiting unfair or deceptive practices "UDAP," data breach, privacy, "do-not-call," and "no spam" laws. Thus, relief under section 363(b)(1) is warranted.

W. Time is of the essence in consummating the Sale. In order to maximize the value of the Sellers' assets, it is essential that the sale of the Intellectual Property and Internet Assets occur within the time constraints set forth in the Agreement. Accordingly, there is cause to lift the stay contemplated by Bankruptcy Rule 6004 with respect to the Transactions.

X. Informal objections to the Motion were received by the Debtors from the Attorney Generals for the States of the United States (the "Attorney Generals").

Y. The Sale contemplated by the Agreement and the transactions contemplated by the Side Letter in the best interests of the Debtors and their estates,

creditors, interest holders and all other parties in interest herein; and it is therefore

ORDERED, ADJUDGED AND DECREED THAT:

1. The relief requested in the Motion is GRANTED.

2. Based on modifications to this Order, the Attorney Generals have determined not to file objections to this Order or the Transactions. All other objections, to the extent not resolved, are hereby OVERRULED.

3. Pursuant to Bankruptcy Code sections 105 and 363, the Agreement and the Transactions are hereby approved and authorized in all respects, unless otherwise ordered herein.

4. Pursuant to Bankruptcy Code sections 363(b) and 363(f), upon the consummation of Transactions, (i) the Sellers' right, title, and interest in the Intellectual Property and Internet Assets shall be transferred to the Purchaser free and clear of all interests, including (without limitation) all liens, mortgages, security interests, charges, easements, leases, subleases, covenants, rights of way, options, claims, restrictions or encumbrances of any kind, except the As-

sumed Liens (as defined in the Agreement), (the "Liens") and all debts, adverse claims, liabilities, commitments, responsibilities and obligations of any kind or nature whatsoever, direct, indirect, absolute or contingent, matured or unmatured, whether accrued, vested or otherwise, whether known or unknown, foreseen or unforeseen, and whether or not actually reflected, or required to be reflected, in a party's balance sheets or other books and records (the "Liabilities" and together with the Liens, the "Interests"), and (ii) the Debtors' right, title and interest in the property that is the subject of the Side Letter shall be transferred to InterTan Canada Ltd. free and clear of all Interests, with all such Interests to attach to the cash proceeds of the Sale in the order of their priority, with the same validity, force, and effect that they had as against the Intellectual Property and Internet Assets immediately before such transfer, subject to any claims and defenses the Sellers may possess with respect thereto.

5. Except as may be expressly provided in the Agreement, Purchaser is not assuming nor shall it or any affiliate of Purchaser be in any way liable or re-

sponsible, as a successor or otherwise, for any liabilities, debts, or obligations of the Sellers in any way whatsoever relating to or arising from the Sellers' ownership or use of the Intellectual Property and Internet Assets prior to the consummation of the Transaction contemplated by the Agreement, or any liabilities calculable by reference to the Sellers or the Intellectual Property and Internet Assets, or relating to continuing or other conditions existing on or prior to the Closing.

6. The Purchaser and its assigns are hereby prohibited from (a) communicating with persons who were customers of Circuit City (the "Warranty Customer") and to whom a warranty contract was issued for any product sold by Circuit City under any agreement between Circuit City and any third party pursuant to which warranty contracts were issued prior to March 31, 2009 (each a "Warranty Contract") with respect to or in connection with any issue related to any such Warranty Contract, except if the inquiry or contact is initiated by such Warranty Customer in which case the Purchaser or its assign shall direct the Warranty Customer to the present obligor or administrator for such Warranty Contract, (b) soliciting

any Warranty Customer to cancel an existing Warranty Contract, or (c) soliciting any Warranty Customer to renew or replace any existing Warranty Contract; provided, however, that neither the Purchaser nor its assigns are prohibited from contacting any such Warranty Customer for any other purpose.

7. The Transactions were undertaken by the Purchaser in good faith and the Purchaser is a good faith purchaser of the Intellectual Property and Internet Assets as that term is used in Bankruptcy Code section 363(m). The Purchaser is entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code.

8. Pursuant to sections 105 and 363 of the Bankruptcy Code, the Debtors and the Purchaser are each hereby authorized to take any and all actions necessary or appropriate to: (i) consummate the Transactions including the Sale of the Intellectual Property and Internet Assets to Purchaser and the Closing of the Sale in accordance with the Motion, the Agreement and this Order; and (ii) perform, consummate, implement and close fully the Agreement and Transactions together with all

additional instruments and documents that may be reasonably necessary or desirable to implement the Agreement.

9. At the Closing (as defined in the Agreement), Seller shall deliver, or cause to be delivered, to Epsilon Data Management, LLC ("Epsilon") on behalf of Purchaser, the Circuit City Data and the Alpine Data. At Purchaser's cost and expense, Epsilon shall conduct an email notification program (the "Opt Out Process") with respect to Consumers for whom there is a valid email address. The Opt Out Process shall include a notice, prepared by the Purchaser and reviewed by the CPO:

a. notifying Consumers that there has been a change in corporate ownership and management of the website located at

<http://www.circuitcity.com> (the "Website");

and

b. providing Consumers the ability to opt out of the transfer of their PII to Purchaser and/or from receiving future email communications from Purchaser.

The Opt Out Process shall commence after the Purchaser

has relaunched the Website and continue for a period of fourteen (14) days (the "Opt Out Period") after notice of the Opt Out Process has been sent to Consumers. Except with respect to the Alpine Data and the Circuit City Data, which will be transferred to Epsilon in accordance with this paragraph, all other Intellectual Property and Internet Assets shall be transferred to Purchaser at Closing.

10. At the conclusion of the Opt Out Period, Epsilon shall (a) file an accounting with the Court identifying the number of Consumers that elected not to have their PII transferred to Purchaser; (b) delete all records of those Consumers that elected not to have their PII transferred to the Purchaser; (c) transfer the Circuit City Data and the Alpine Data, absent information of Consumers who elected not to have their PII transferred to Purchaser, encrypted using S-FTP or physically in a separate file; and (d) file a certification with the Court confirming that it has conducted the Opt Out Process in accordance with this Order.

11. With respect to the transfer of the Circuit City Data and the Alpine Data, the Purchaser shall:

- a. With respect to the Alpine Data, the Purchaser has agreed to comply with the Circuit City Privacy Policy ("Circuit City Privacy Policy"), attached as Schedule G to the Agreement, to the extent set forth herein, without determining whether it is required under the Bankruptcy Code.
- b. adopt and comply with the Circuit City Privacy Policy except that in the case of the Alpine Data, notice to Consumers shall be by notice on the Website for those persons for whom the Purchaser does not have a valid email address.
- c. use PII for the same purpose(s) as are specified in the Circuit City Privacy Policy;
- d. prior to making any material change to the Circuit City Privacy Policy or the use or disclosure of PII different from that specified in the Circuit City Privacy Policy, notify the persons whose PII is included in the Circuit City Data by mail or

email (if available), as appropriate and in the Purchaser's sole discretion as to which method of notification to be used, and the persons included in the Alpine Data by a notice on the Website or by email if a valid email address is available and afford such persons the opportunity to opt out of the changes to the Circuit City Privacy Policy or the new uses of their data;

e. place a clear and conspicuous notice of the change in corporate ownership on the home page of the Website for a period of one year from the date of the relaunch by the Purchaser of the Website;

f. Notify websites that maintain eCommerce ratings of the change in corporate ownership of the Website;

g. employ appropriate information security controls and procedures (technical, operational, and managerial) to protect the Circuit City Data and the Alpine Data; and

h. abide by all applicable federal, state, and international laws, including laws prohibiting unfair or deceptive practices "UDAP," data breach, privacy, "do-not-call," and "no spam" laws.

12. This Order is and shall be binding upon and govern the acts of all entities, including, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Intellectual Property and Internet Assets conveyed to Purchaser. All such entities described above in this paragraph are authorized and specifically directed to strike all recorded Interests against the Intellectual Property and Internet Assets and the property that is the subject

of the Side Letter from their records, official and otherwise.

13. Each and every federal, state and governmental agency or department, and any other person or entity, is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the Transactions.

14. This Order shall be effective immediately upon entry, and any stay of orders provided for in Bankruptcy Rule 6004(h) or any other provision of the Bankruptcy Code or Bankruptcy Rules is expressly lifted.

15. The Agreement and any related agreements, documents or instruments may be modified or supplemented by the parties thereto in accordance with the terms thereof, without further order of this Court, to the extent such modification is not material.

16. Except as provided in this Order, to the extent this Order is inconsistent with any prior order or pleading with respect to the Motion in these chapter 11 cases, the terms of this Order shall govern. Except as provided in this Order, to the extent there is any inconsistency between the terms of this Order and the

terms of the Agreement (including all ancillary documents executed in connection therewith), the terms of this Order shall govern.

17. Notwithstanding anything to the contrary set forth in this Order or the Agreement, (i) the intellectual property set forth on the Schedule attached hereto as Exhibit 2 constitutes an Excluded Asset and is, therefore, not an Acquired Asset or Intellectual Property and Internet Asset, (ii) the Canada License is an Assumed Lien and, therefore, not a Lien, Interest or Liability, (iii) the Amended and Restated Trademark and Service Mark License Agreement between CCWC and InterTAN Canada Ltd. dated May 11, 2009 (the "Existing Canadian License") is an Assumed Lien and, therefore, not a Lien, Interest or Liability, and (iv) InterTAN Canada Ltd. may continue to use the trademarks and service marks licensed to it pursuant to the Existing Canadian License (the "Canadian Licensed IP") in Canada in accordance with the Existing Canadian License and shall not be required to destroy any material in Canada relating to the Canadian Licensed IP.

18. At Closing, the Purchaser shall deliver an executed copy of the Canada License in accordance with Section 2.03(d) of the Agreement, and shall deliver an executed copy of the Canada License to 4458729 Canada Inc. at the closing of the transactions contemplated in the Canada APA (as defined in the Agreement) in accordance with 5.09 of the Agreement.

19. The Court retains jurisdiction, even after the closing of these chapter 11 cases, to:

(1) interpret, implement and enforce the terms and provisions of this Order (including the injunctive relief provided in this Order) and the terms of the Agreement, all amendments thereto and any waivers and consents thereunder; (2) protect the Purchaser, or the Intellectual Property and Internet Assets, from and against any of the Interests; (3) compel delivery of all Intellectual Property and Internet Assets to Purchaser; and (4) resolve any disputes arising under or related to the Agreement, the Sale or the Transactions or Purchaser's peaceful use and enjoyment of the Intellectual Property and Internet Assets.

Dated: Richmond, Virginia
May 14, 2009

/s/ Kevin R. Huennekens
UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: 5/15/09

WE ASK FOR THIS:

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Counsel to the Debtors and Debtors in Possession

CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Douglas M. Foley
Douglas M. Foley

EXHIBIT 1

(Agreement)

EXHIBIT 2

(IP Constituting Excluded Assets)

Imaged Certificate of Service Page 30 of 30

CERTIFICATE OF NOTICE

District/off: 0422-7
Case: 08-35653

User: jafarbayj
Form ID: pdforder

Page 1 of 1
Total Served: 1

Date Rcvd: May 15, 2009

The following entities were served by first class mail on May 17, 2009.
atty +Gregg M. Galardi, Skadden Arps Slate Meagher, & Flom LLP, One Rodney Sq., PO Box 636,
Wilmington, DE 19899-0636

The following entities were served by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****
NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: May 17, 2009

Signature:

